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The Fault With Ford's Attack on Leaks

BY JOHN MARKS

If it had been a crime to leak "classified" information four years ago, as President Ford has now proposed, Richard Nixon might still be President of the United States.

Nixon, after all, was forced out of office because he and his associates were caught covering up such crimes as burglarizing a psychiatrist's office, sabotaging the opposition party and wiretapping newsmen. Aside from White House approval, these acts had something in common: All touched in some way government intelligence agencies, and were tied to "secret" operations which the administration claimed were vital to "national security."

Indeed, Nixon's first known step in concealing the Watergate affair was to have presidential assistant H. R. Haldeman order the CIA to inform the FBI that a thorough investigation would endanger CIA operations. To its credit, the CIA cooperated for only a few days and then backed off. But Richard Helms, the agency's director, was not about to become a whistle-blower, and for months the CIA withheld important information about the affair. Happily, lesser bureaucrats subsequently leaked out much of the "classified" story, and Nixon had to retire to San Clemente.

Now, as if none of this had ever happened, Ford is urging Congress to pass a law that would jail leakers. Strangely, this is much harsher treatment than the President seems willing to dish out to officials whose abuses of power have been revealed by leaks. He not only pardoned Nixon, but also refused to prosecute those responsible for the illegal acts—domestic spying, assassination attempts, mail openings—unearthed by the Rockefeller commission.

"To protect our security diplomatically, militarily and economically," Ford said in proposing his plan to combat leaks, "we must have a comprehensive intelligence capability." Clearly, the President believes that leaks have endangered that capability. Yet, the recent disclosures that so enraged the Administration had nothing to do with the legitimate collection of intelligence.

The leaks concerning Angola revealed that, once again, the White House and CIA were taking the country into a "secret war," and had already committed about \$60 million of taxpayer money to the fighting. Other leaks indicated that since 1948 the CIA has made \$75 million in secret payments to Italian politicians, and that the intelligence agencies have been understating their budgets to Congress by "three or four times."

Ford may well have the best of intentions in this matter. Indeed, he has pledged that intelligence agencies will not be misused while he is in office. Yet, tens of thousands of people who worked to end the Vietnam war or to guarantee civil rights for all Americans—and who were thereby subject to government surveillance and harassment—have reason to be wary. Even if President Ford really does stop abuses, his proposal that leakers be imprisoned would, if enacted, remain in force under future Presidents who might be more willing to disregard the rights of citizens.

According to Ford, the bill "would in no way prevent people from reporting questionable practices to appropriate authorities in the executive and legislative branches." Nevertheless, under the language of the Ford proposal, it would be a crime for a bureaucrat faced with what he considered an illegal "classified" order or action to complain to a congressman or senator—much less to the press. A bureaucrat could discuss the illegal deed with a congressional committee only if the committee directly asks about it, an unlikely prospect unless the bureaucrat broke the law by tipping the committee in advance.

Within the executive branch, the President has designated the inspectors-general of the various intelligence agencies to be the watchdogs against abuse. Yet, these same inspectors-general were supposed to play exactly that role during all the years in which the agencies were involved in serious misconduct.

As a final safeguard, the President has appointed a new Intelligence Oversight Board in the White House. It is supposed to perform the same function that the old Foreign Intelligence Advisory Board failed to carry out—in fact, two of the new board's three members served on the old body. Moreover, by appointing only veteran cold-warriors—Robert Murphy, 81, Leo Cherne, 63, and Stephen Ailes, 63—the President seemed to assure that those who may protest possible abuses would find the process difficult at best.

Murphy, for example, was intimately in-

volved in planning covert operations during his long diplomatic career. It is unlikely that he would sympathetically receive a dissident bureaucrat who believed the American people should be informed of new CIA plans to fight a secret war or destabilize a democratically elected government.

Similarly, Cherne, who has been involved with hard-line anti-Communist causes for more than 25 years, might be reluctant to object to a domestic surveillance program supposedly aimed at discovering foreign ties to American political groups. (The CIA's rationalization for its illegal domestic spying was, of course, that it was intended to discover whether antiwar or civil-rights groups were receiving support from leftist governments abroad.)

If the U.S. government is able to jail leakers, the public will probably receive less information about what the government is actually doing. Thus, official spokesmen will play an increased role in shaping the news. Of course, no abuse may occur, as Ford has vowed, but should a President or an intelligence chief want to conceal illegal actions, the Ford bill would make it extremely difficult for the press to pry the truth loose from bureaucrats.

If Congress now passes Ford's bill, it will, in effect, be laying the groundwork for future coverups. It does not require a great deal of imagination to envision Nixon sitting in San Clemente and wishing with all his heart that he had had this bill to protect him.

A former State Department official, John Marks is currently the director of the CIA Project at the Center for National Security Studies in Washington. With Robert Borosage he is the editor of a new book, "The CIA File."
